

REMARKS

Reconsideration of the issue raised in the above referenced Office Action is respectfully solicited.

There is no indication that the formal drawings have been approved. Applicant respectfully requests approval of the formal drawings in the next Office Action.

The abstract has been amended to conform to USPTO requirements. Approval of the amended Abstract is respectfully requested.

The rejection of Claims 1-33 under 35 USC §112, second paragraph, as being indefinite has been considered. Claim 1 has been amended to overcome the rejection and to address other informalities therein. Claims 3, 11, 21 and 28 have been cancelled. Further, dependent Claims 2, 4-8, 12-14, 17, 20, 22-26, and 29-32 have been amended to address other informalities therein. Therefore reconsideration and withdrawal of the rejection of claims under 35 USC §112 second paragraph, is respectfully requested.

The rejection of Claims 1-33 under 35 USC §103 as being unpatentable over U.S. Patent No. 2 240 599 to Amberg in view of U.S. Patent No. 4 813 362 to Bowers has been considered.

Figure 4 and 5 of Amberg show a single piece paper cup having a flat four-sided base. Page 2, column 2, lines 68-75 of Amberg discloses a double thickness of folded material at glue lines to strengthen the cup on opposite sides and form the bottom. Page 3, column 1, lines 35-40 discloses that the cup may have a rolled brim 118 or that the brim may have flared edges and lines 38-40 state that different types of rolled and flared edges are well known in the art.

Page 4, column 1, lines 18-27 of Amberg discloses the use of other pliable sheet materials, such as transparent or translucent cellulosic materials or rubberized sheet materials for the cup. There is, however, no disclosure of plural layers of material, much less specific material for any of such plural layers.

Bowers discloses a cone-shaped laminated body forming a collapsible package. As shown in Figure 3, a preformed extrusion fitment 22 including a closure at a top part thereof is fitted into a top opening of the cone body.

Figure 2 of Bowers shows a laminated structure for the cone blank 1 having a structural ply 11 comprised of an essentially non-stretchable web material such as paper, as discussed at column 3, lines 52-62 therein. A moisture resistant film or coating 12 is coated on an outer side of the structural ply 11 and a polymeric film 13 is bonded on an inner side of the ply by an adhesive layer 14. Column 2, lines 3-19 of Bowers discloses specific moisture-resistant coatings 12 and polymeric films 13. There is no disclosure of a transparent structural ply.

There is no disclosure or suggestion in Bowers of having a single sheet of material. Further, Bowers discloses applying coatings or laminate, rather than utilizing glued seams. Column 4, lines 63-68 of Bowers discloses that the fitment 22 is formed of a molded plastic heat sealed to the body member 21. Column 5, lines 1-2 recites a snap-on cap.

Finally, the container of Bowers does not disclose or suggest a bent opening edge. Instead the brim of the opening receives the separate filament 22 of closure 23.

Applicant's Claim 1 recites "a flexible wall comprising at least two layers". There is no motivation, absent Applicant's specification, to substitute the body with plural layers of Bowers for the single piece blank utilized to form the cup of Amberg.

Further, there is no motivation to use the heat sealing of Bowers for forming a cone-shaped body portion instead of the glue lines joining folded seams illustrated in Figure 5 of Amberg. These are two different methods of forming a cup that result in different structures having different properties, such as the different strengths at parts of the cup of Amberg having double thickness.

There is no disclosure or suggestion of the laminate including a structural ply 11 of Bowers being transparent. Therefore, even if the plural layers of Bowers were substituted for the pliable sheet material of Amberg, which Applicant disagrees with, Applicant's claimed invention would not result. The collapsible container would not be transparent.

Claim 1 further recites that "the container is formed from a transparent and fluid tight material" and "bending the opening edge" and that the container "is dimensionally stable after the shaping".

As discussed above, it would not have been obvious to provide the container of Amberg with the plural layers of Bowers while maintaining the container transparent. Further, there is no specific disclosure that the multi-layer container of Bowers is dimensionally stable after shaping.

Finally, Bowers discloses a closed package rather than a cup having a flattened bottom as in Amberg. Thus, it is unclear why one would look to Bowers, absent Applicant's specification, to modify the flat bottomed cup of Amberg.

Dependent Claims 2, 4-10, 12-20, 22-27 and 29-33 further distinguish the applied prior art. For example, Claim 5 recites that "three of said layers are provided, each of which is transparent". As discussed above, Amberg teaches a container that may have a transparent sheet and Bowers discloses a container formed with a cone-shaped laminated body with three layers including at least a structural ply layer 11. There is no disclosure that the body of Bowers is transparent.

Applicant's Claim 6 recites that "a central one of said layers is an elastic yet permanently ductile layer, and after the shaping, a dimensionally stable layer". Column 3, lines 58-62 of Bowers specifically discloses that the structural ply 11, which defines a central layer, comprises an essentially non-stretchable web material such as paper.

Regarding Claims 7, 10, 12-14, 17, 18 and 23-26, the Office Action indicates that "official notice is taken that the claimed structures are all well known in the container arts" or common knowledge. Official notice is discussed at MPEP §2144.03. MPEP §2144.03 indicates that the use of "official notice" should be rare.

Applicant disagrees with the use of official notice with respect to at least Claims 12, 14 and 23-25 as follows.

Claim 12 recites "a central layer made of polyester and outer and inner layers that comprise coats of lacquer applied to the central layer". There is no motivation, absent Applicant's specification, to arbitrarily select a layer of polyester or layers of lacquer, much less polypropylene as recited in dependent Claim 13, except to obtain Applicant's invention. While Applicant does not at this stage admit that a collapsible container having a central layer of polyester exists, even if it does, substituting such a layer for the different layers disclosed in Bowers is not proper absent some motivation or teaching.

Further, Claims 14, 23 and 24 recite a print provided on one or more specific sides of specific layers. Claim 23 recites the print having a three-dimensional effect and Claim 24 recites that the print comprises a hologram. Applicant does not admit that the use of a print having a three-dimensional effect or providing a hologram combined with Applicant's specific claimed collapsible container is common knowledge in the art. Applicant respectfully requests a showing of the use of such a print with a collapsible container that includes Applicant's claimed structure.

Further, Applicant's Claim 25 recites that the print leaves open a control window on the wall of the container. Applicant does not know of such a structure combined with the wall of a collapsible container as recited in Applicant's Claims 1 and 10.

Applicant's Claim 27 recites that "the opening edge is bent at an angle of 90° or more relative to the rest of the

wall". This specific value does not appear to be present in the applied prior art.

Applicant's Claim 32 recites "an insulating section of air within one of said layers or between said layers to provide an insulating effect". This structure is disclosed at paragraph [0048] of Applicant's specification and is not disclosed or suggested by the applied prior art.

In view of the above comments, reconsideration and allowance of Claims 1, 2, 4-10, 12-20, 22-27 and 29-33 is respectfully requested.

Claims 34-37 have been added.

Independent Claim 34 recites a collapsible transparent container including "a first liquid impermeable transparent inner layer comprising polypropylene, polyvinyl chloride, polystyrene, polyamide, polyethylene terephthalate, or laminate", "a second elastic and dimensionally stable transparent central layer" and "a third gas impermeable transparent outer layer comprising polypropylene, oriented polypropylene, polyethylene, polyethylene terephthalate, lacquered polyethylene terephthalate, polyamide or lacquered and oriented polyamide". As discussed above, the applied prior art as combined does not disclose, teach or suggest the specific claimed layers for a collapsible transparent container. More specifically, the applied prior art does not disclose a second elastic central layer, much less a dimensionally stable transparent central layer.

Moreover, Claim 34 recites that "the transparency of said container enables filling thereof to be monitored from a direction perpendicular to the filling direction and enables optical identification of the food stored therein". This specific feature is not disclosed by the combination of Amberg and Bowers.

Finally, Claim 34 recites that "the container is dimensionally stable after having been shaped so that said container is deformable when a force is applied to the outer layer thereof to enable consumption of at least part of the

food and so that said container returns to essentially its original shape when the force is removed whereby the food is retracted back into an interior of the container until another force is applied to the outer layer". This feature is disclosed at paragraph [0080] of Applicant's specification and is not disclosed or suggested by the applied prior art.

Claims 35-37 further distinguish the applied prior art. Claim 35 recites "an insulating section of air within one of said layers or between two of said layers to provide an insulating effect". An insulating section of air is not disclosed or suggested by the applied prior art.

Claim 36 recites a print "preventing viewing through said container except for a control window". The applied prior art does not disclose or suggest a control window.

Applicant's Claim 37 recites "a lid for closing the withdrawal opening at the opening end of the container and a lid handle projecting outwardly from an edge of said lid to enable removal of said lid and access to the interior of said container". Amberg does not disclose or suggest a lid for the container. Further Bowers discloses a nozzle secured at the top center of the cone-shaped body and a separate cap or cover across a nozzle aperture. Thus, Bowers clearly does not disclose a lid handle projecting outwardly from an edge of a lid.

For the above reasons, Claims 34-37 further distinguish the applied prior art and allowance thereof is respectfully requested.

Further and favorable reconsideration is respectfully solicited.

Respectfully submitted,

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Encl: Marked-up Abstract of the Disclosure
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COLLAPSIBLE CONTAINER

ABSTRACT OF THE DISCLOSURE

A collapsible container for receiving food has a flexible wall ~~comprising~~that includes at least two layers. The container ~~comprises~~has a withdrawal opening with a bent opening edge and is closed at its end opposite the withdrawal opening. The container is rolled from a two-dimensional blank which is connected with itself in an overlap region extending in particular in the longitudinal direction of the container by ~~means of~~ heat and/or pressure. ~~To improve such a collapsible container to the effect that in a simple constructive and inexpensive manner,~~ An inspection of the interior of the container is possible and at the same time maintaining all advantages of the known collapsible containers, ~~since~~ the container is formed from a transparent and ~~in particular~~ liquid, preferably fluid tight material which can be shaped ~~in particular~~ for bending the opening edge and is dimensionally stable after the shaping. ~~Also,~~ A blank for the manufacturer ~~for manufacture~~ of such a collapsible container is provided.